AMENDED IN SENATE JULY 2, 2014

AMENDED IN ASSEMBLY MAY 15, 2014

AMENDED IN ASSEMBLY APRIL 30, 2014

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 1999

Introduced by Assembly Member Atkins

February 20, 2014

An act to add and repeal Sections 38.9, 17053.86, and 23686 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1999, as amended, Atkins. Personal income and corporation taxes: credits: rehabilitation.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2015, and before January 1, ~~2021,~~ *2023,* in an amount, determined pursuant to a specified section of the Internal Revenue Code, that is paid or incurred during the taxable year for rehabilitation of certified historic structures. This bill would provide for a ~~25%~~ *20%* credit, or ~~30%~~ *25%* credit if the structure meets specified criteria, for rehabilitation of a certified historic structure within the state to be allocated by the Governor's Office of Business and Economic Development in an aggregate amount of ~~$100,000,000~~ *$80,000,000* per calendar year, as specified. This bill would require the Legislative

Analyst to, on an annual basis, collaborate with the Governor's Office of Business and Economic Development to review the tax credit, as provided.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares that California's historic buildings are an important asset to communities throughout the state, and that the preservation and restoration of these buildings is important to enhancing civic pride, increasing tourism, and maintaining vibrant neighborhoods.

(b) The Legislature further finds and declares all of the following:

(1) The federal Historic Preservation Tax Incentives program, currently available to California's income producing historic properties, has generated nearly $1.5 billion in investment during the last 10 years.

(2) While 35 states have similar state tax credits or incentives for historic preservation, no such incentive exists in California.

(3) States that have partnered a state incentive with the federal Historic Preservation Tax Incentive have reaped significant economic development benefits, including construction and building industry job creation, increased state tax revenues through increased employment and wages, increased local property tax revenues through increased property values, and increased local tax revenues through sales taxes and heritage tourism.

(4) Over the last 10 years, California has had 129 projects qualify for the federal Historic Preservation Tax Incentives program. These projects have been located in 20 different counties.

(5) As California communities continue to adjust and adapt to the dissolution of redevelopment agencies, proven tools are still needed to incentivize economic development and revitalize economically distressed areas.

SEC. 2. Section 38.9 is added to the Revenue and Taxation Code, to read:

38.9. (a) The Legislative Analyst shall, on an annual basis beginning January 1, 2016, collaborate with the Governor's Office of Business and Economic Development to review the effectiveness of the tax credits allowed by Sections 17053.86 and 23686. The review shall include, but is not limited to, an analysis of the demand for the tax credit, the types and uses of projects receiving the tax credit, the jobs created by the use of the tax credits, and the economic impact of the tax credits.

(b) This section shall remain in effect only until January 1, ~~2022,~~ *2024,* and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2022,~~ *2024,* deletes or extends that date.

SEC. 3. Section 17053.86 is added to the Revenue and Taxation Code, to read:

17053.86. For each taxable year beginning on or after January 1, 2015, and before January 1, ~~2021,~~ *2023,* there shall be allowed as a credit against the “net tax,” as defined in Section 17039, an amount determined in accordance with Section 47 of the Internal Revenue Code, except as follows:

(a) (1) In lieu of the percentages specified in Section 47(a) of the Internal Revenue Code, except as provided in paragraph (2), the applicable percentage shall be ~~25~~ *20* percent of the qualified rehabilitation expenditures with respect to a certified historic structure.

(2) The applicable percentage shall be ~~30~~ *25* percent of the qualified rehabilitation expenditures with respect to a certified historic structure if that certified historic structure meets one of the following criteria:

(A) The rehabilitated structure is located on ~~either~~ federal surplus property, if obtained by a local agency under Section 54142 of the Government Code, on surplus state real property, as defined by Section 11011.1 of the Government Code, or on surplus land, as defined by subdivision (b) of Section 54221 of the Government Code.

(B) The rehabilitated structure includes affordable housing for lower-income households, as defined by Section 50079.5 of the Health and Safety Code.

(C) The structure is located in a designated census tract, as defined in paragraph (7) of subdivision (b) of Section 17053.73.

(D) The structure is a part of a military base reuse authority established pursuant to Title 7.86 (commencing with Section 67800) of the Government Code.

(E) The structure is a transit-oriented development that is a higher-density, mixed-use development within a walking distance of one-half mile of a transit station.

(b) For purposes of this section, a certified historic structure means a structure in this state that appears on either the National Register of Historic Places or the California Register of Historical Resources.

(c) A deduction shall not be allowed under this part for any expense for which a credit is allowed by this section.

(d) If a credit is allowed under this section with respect to any property, the basis of that property shall be reduced by the amount of the credit allowed.

(e) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and the seven succeeding years if necessary, until the credit is exhausted.

(f) For purposes of this section, the Governor's Office of Business and Economic Development shall do the following:

(1) (A) On and after January 1, 2015, and before January 1, ~~2021,~~ *2023*, allocate tax credits to applicants.

(B) (i) The credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal historic rehabilitation tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code.

(ii) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the federal credit shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until, and treated as if, it occurred in the first taxable year immediately following the taxable year in which the federal credit period expires for the project described in clause (i).

(2) Establish a procedure for applicants to file with the Governor's Office of Business and Economic Development a written application, on a form jointly prescribed by that office and

the Office of Historic Preservation for the allocation of the tax credit.

(3) Establish criteria consistent with the requirements of this section, for allocating tax credits. Criteria shall include, but are not limited to, the following:

(A) The number of jobs created by the rehabilitation project, both during and after the rehabilitation of the structure.

(B) The expected increase in state and local tax revenues derived from the rehabilitation project, including those from increased wages and property taxes.

(C) Any additional incentives or contributions included in the rehabilitation project from federal, state, or local governments.

(4) Determine and designate, in consultation with the Office of Historic Preservation, applicants that meet the requirements of this section to ensure that the rehabilitation project upholds historical values in terms of architectural and aesthetic standards.

(5) Process and approve, or reject, all applications.

(6) Subject to the annual cap established as provided in subdivision (g), allocate an aggregate amount of credits under this section and Section 23686, and allocate any carryover of unallocated credits from prior years.

(7) Certify tax credits allocated to taxpayers.

(8) Provide the Franchise Tax Board an annual list of the taxpayers that were allocated a credit pursuant to this section and Section 23686, including each taxpayer's taxpayer identification number, and the amount allocated to each taxpayer.

(g) The aggregate amount of credits that may be allocated in any calendar year pursuant to this section and Section 23686 shall be an amount equal to the sum of all of the following:

(1) ~~One hundred million dollars ($100,000,000)~~ *Eighty million dollars ($80,000,000)* in tax credits for the 2015 calendar year and each calendar year thereafter, through and including the ~~2020~~ *2022* calendar year.

(2) The unused allocation tax credit amount, if any, for the preceding calendar year.

(h) This section shall remain in effect only until December 1, ~~2021,~~ *2023,* and as of that date is repealed.

SEC. 4. Section 23686 is added to the Revenue and Taxation Code, to read:

23686. For each taxable year beginning on or after January 1, 2015, and before January 1, ~~2021,~~ *2023,* there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount determined in accordance with Section 47 of the Internal Revenue Code, except as follows:

(a) (1) In lieu of the percentages specified in Section 47(a) of the Internal Revenue Code, except as provided in paragraph (2), the applicable percentage shall be ~~25~~ *20* percent of the qualified rehabilitation expenditures with respect to a certified historic structure.

(2) The applicable percentage shall be ~~30~~ *25* percent of the qualified rehabilitation expenditures with respect to a certified historic structure if that historic structure meets one of the following criteria:

(A) The rehabilitated structure is located on ~~either~~ federal surplus property, if obtained by a local agency under Section 54142 of the Government Code, on surplus state real property, as defined by Section 11011.1 of the Government Code, or on surplus land, as defined by subdivision (b) of Section 54221 of the Government Code.

(B) The rehabilitated structure includes affordable housing for lower-income households, as defined by Section 50079.5 of the Health and Safety Code.

(C) The structure is located in a designated census tract, as defined in paragraph (7) of subdivision (b) of Section 17053.73.

(D) The structure is a part of a military base reuse authority established pursuant to Title 7.86 (commencing with Section 67800) of the Government Code.

(E) The structure is a transit-oriented development that is a higher-density, mixed-use development within a walking distance of one-half mile of a transit station.

(b) For purposes of this section, a certified historic structure means a structure in this state that appears on either the National Register of Historic Places or the California Register of Historical Resources.

(c) A deduction shall not be allowed under this part for any cost for which a credit is allowed by this section.

(d) If a credit is allowed under this section with respect to any property, the basis of that property shall be reduced by the amount of the credit allowed.

(e) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and the seven succeeding years if necessary, until the credit is exhausted.

(f) For purposes of this section, the Governor's Office of Business and Economic Development shall do the following:

(1) (A) On and after January 1, 2015, and before January 1, ~~2021,~~ *2023,* allocate tax credits to applicants.

(B) (i) The credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal historic rehabilitation tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code.

(ii) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the federal credit shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until, and treated as if, it occurred in the first taxable year immediately following the taxable year in which the federal credit period expires for the project described in clause (i).

(2) Establish a procedure for applicants to file with the Governor's Office of Business and Economic Development a written application, on a form jointly prescribed by that office and the Office of Historic Preservation for the allocation of the tax credit.

(3) Establish criteria consistent with the requirements of this section, for allocating tax credits. Criteria shall include, but are not limited to, the following:

(A) The number of jobs created by the rehabilitation project, both during and after the rehabilitation of the structure.

(B) The expected increase in state and local tax revenues derived from the rehabilitation project, including those from increased wages and property taxes.

(C) Any additional incentives or contributions included in the rehabilitation project from federal, state, or local governments.

(4) Determine and designate, in consultation with the Office of Historic Preservation, applicants that meet the requirements of this section to ensure that the rehabilitation project upholds historical values in terms of architectural and aesthetic standards.

(5) Process and approve, or reject, all applications.

(6) Subject to the annual cap established as provided in subdivision (g), allocate an aggregate amount of credits under this section and Section 17053.86, and allocate any carryover of unallocated credits from prior years.

(7) Certify tax credits allocated to taxpayers.

(8) Provide the Franchise Tax Board an annual list of the taxpayers that were allocated a credit pursuant to this section and Section 17053.86, including each taxpayer's taxpayer identification number, and the amount allocated to each taxpayer.

(g) The aggregate amount of credits that may be allocated in any calendar year pursuant to this section and Section 17053.86 shall be an amount equal to the sum of all of the following:

(1) ~~One hundred million dollars ($100,000,000)~~ *Eighty million dollars ($80,000,000)* in tax credits for the 2015 calendar year and each calendar year thereafter, through and including the ~~2020~~ *2022* calendar year.

(2) The unused allocation tax credit amount, if any, for the preceding calendar year.

(h) This section shall remain in effect only until December 1, ~~2021,~~ *2023*, and as of that date is repealed.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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